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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

LEAGUE OF WILDERNESS)
DEFENDERS-BLUE MOUNTAINS)
BIODIVERSITY PROJECT, and the)
SIERRA CLUB,)

No. 09-cv-1023-SU

Plaintiffs,)

vs.)

SETTLEMENT AGREEMENT

KEVIN MARTIN, in his official capacity as)
Forest Supervisor of the Umatilla National)
Forest, and the UNITED STATES)
FOREST SERVICE,)

Defendants.)

In reference to the Environmental Assessment, issued in March of 2009, and the Decision Notice and Finding of No Significant Impact, issued on March 6, 2009, for the Wildcat Fuels Reduction and Vegetation Management Project, Plaintiffs' claims under the National Environmental Policy Act have been dismissed by agreement of the Parties pursuant to Fed. R.

Civ. P. 41(a)(1)(A)(ii). Docket No. 15. The Parties have resolved Plaintiffs' request for fees and costs related to their claims. Accordingly, the Parties stipulate and agree as follows:

1. Defendants agree to pay Plaintiffs \$350 in full and complete satisfaction of any and all claims, demands, rights, and causes of action pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and/or any other statute and/or common law theory, for all attorneys' fees and costs incurred by Plaintiffs, individually and/or severally, in this litigation.
2. Defendants' payment, as identified in Paragraph 1 above, shall be accomplished by electronic fund transfer into the Sean T. Malone Lawyer Trust Account. Mr. Malone is receiving funds in trust for Plaintiffs, and Plaintiffs agree to this procedure. Plaintiffs' attorneys shall provide the appropriate account number and other information needed to facilitate payment to the undersigned counsel for Defendants. Defendants shall submit the paperwork for the payment within twenty (20) business days after this stipulation is entered by the Court or Plaintiff provides the necessary information as required by this paragraph to facilitate the payment, whichever is later. Plaintiffs' attorneys shall notify the Defendants' attorney within fourteen (14) days of receipt of such payment.
3. Plaintiffs agree that receipt of the full amount specified in paragraph (1), above, from Defendants to Plaintiffs' attorney shall operate as a release of any and all claims for attorneys' fees and costs that Plaintiffs may seek to pursue in this litigation.
4. This agreement is the result of compromise and settlement and does not represent an admission by any Party to any fact, claim, or defense in any issue in this lawsuit. This agreement has no precedential value and shall not be cited in any other litigation except as necessary to enforce the terms of the agreement.

5. No provision of this agreement shall be interpreted as or constitute a commitment or requirement that Defendants obligate or pay funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable appropriations law.
6. Nothing in the terms of this agreement shall be construed to limit or deny the power of a federal official to promulgate or amend regulations or procedures.
7. The undersigned representatives of the Parties certify that they are fully authorized by the respective Parties whom they represent to enter into the terms and conditions of this agreement and to legally bind such Parties to it.
8. This agreement represents the entirety of the Parties' commitments with regard to settlement.

AGREED on this 30th day of December, 2009.

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/s/ Sean Malone
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AGREED on this 30th day of December, 2009.

IGNACIA S. MORENO

Assistant Attorney General
Environment and Natural Resources Division

/s/Alison D. Garner

ALISON D. GARNER

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Environment and Natural Resources Division

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Attorneys for Defendants

Certificate of Service

I hereby certify that on December 30, 2009, Plaintiffs filed through the United States District Court ECF System the foregoing Settlement Agreement to be served by CM/ECF electronic filing on the following attorneys of record:

Alison Garner
alison.garner@usdoj.gov

/s/ Sean T. Malone
Sean T. Malone
Attorney for Plaintiffs